



City Council Meeting SYNOPSIS

Tuesday, September 12, 2017

SAM LICCARDO, MAYOR

CHAPPIE JONES, DISTRICT 1

SERGIO JIMENEZ, DISTRICT 2

RAUL PERALEZ, DISTRICT 3

LAN DIEP, DISTRICT 4

MAGDALENA CARRASCO, VICE MAYOR, DISTRICT 5

DEV DAVIS, DISTRICT 6

TAM NGUYEN, DISTRICT 7

SYLVIA ARENAS, DISTRICT 8

DONALD ROCHA, DISTRICT 9

JOHNNY KHAMIS, DISTRICT 10

City Council

- o Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- o To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 6 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

17-109 Closed Session Agenda

- **Call to Order and Roll Call**

9:15 a.m.- Closed Session, Call to Order in Council Chambers
Absent Councilmembers: All present.

1:32 p.m.- Regular Session, Council Chambers, City Hall
Absent Councilmembers: All present.

6:01 p.m.- Public Hearings, Council Chambers, City Hall
Absent Councilmembers: All present.

City Council

- **Invocation (District 8)**
Mike Osborne of the Evergreen School of Music and Art performed an American anthem on the guitar.
- **Pledge of Allegiance**
Students from Parkview Elementary School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 7.2 deferred to October 24, 2017.
- **Closed Session Report**
City Attorney Rick Doyle provided the following Closed Session Report:

The City Council authorized the City Attorney to initiate litigation in one matter. (9-0-2. Absent: Rocha, Carrasco.)

Mayor Sam Liccardo announced the Public Employee Appointment Pursuant to Government Code Section 54957 of Aaron Zisser as the Independent Police Auditor. (10-1. Noes: Rocha.)

CEREMONIAL ITEMS

- 1.1 17-052** Presentation of a proclamation to Museum Day Live! (Davis)
Mayor Sam Liccardo and Councilmember Dev Davis provided a proclamation to Museum Day Live!
Heard in the Evening.
- 1.2 17-106** Presentation of a proclamation to recognize the month of September as Ovarian Cancer Awareness Month in the City of San José. (Perez)
Mayor Sam Liccardo and Councilmember Raul Perez provided a proclamation proclaiming the month of September 2017 as Ovarian Cancer Awareness Month in the City of San Jose.
- 1.3 17-110** Presentation of a commendation to the Leland Robotics Quixilver team for representing San José at the 2017 FIRST Robotics World Championship in Houston, Texas. (Khamis)
Mayor Sam Liccardo and Councilmember Johnny Khamis presented a commendation to the Leland Robotics Quixilver team for representing San Jose at the 2017 FIRST Robotics World Championship in Houston, Texas.
Heard in the Evening.

CONSENT CALENDAR

- 2.1 Approval of City Council Minutes.**
None provided.

City Council

2.2 Final Adoption of Ordinances.

2.2(a) 17-069 **ORDINANCE NO. 29987**

Recommendation: An Ordinance of the City of San José amending Chapter 4.80 of Title 4 of the San José Municipal Code to add a new part for the San José Clean Energy Operating Fund. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Manager)
Ordinance No. 29987 was adopted.

2.3 Approval of Council Committee Minutes. None provided.

2.4 Mayor and Council Excused Absence Requests. None provided.

2.5 City Council Travel Reports. None provided.

2.6 Report from the Council Liaison to the Retirement Boards. None provided.

2.7 17-060 **Sale of a Portion of the Northeasterly Corner of City-Owned Property on North Fourth Street and East Santa Clara Street.**

Recommendation: Adopt a resolution:

- (a) Declaring 86 square feet of vacated street on North Fourth and East Santa Clara Streets, surplus to the needs of the City;
- (b) Approving an Agreement between the City of San Jose and SJSC Properties, LLC for the sale of the property in the amount of \$18,146; and
- (c) Authorizing the City Manager or his designee to execute the sale agreement, the quitclaim deed, and all other documents necessary to complete the transaction.

CEQA: Addendum to the Downtown Strategy 2000 EIR, the Envision San José 2040 General Plan and Envision San José 2040 General Plan Supplemental EIR, Planning File No. SP17-009. Council District 3. (Economic Development)
Resolution No. 78347 adopted.

2.8 17-068

Mayor's Staff Travel to Atlanta, GA. – City Clerk to pull and drop

Recommendation:

Accept travel payments and authorize official City travel for Mayor's staff, Sachin Jain, to Atlanta, Georgia from September 14, 2017 to September 15, 2017 for a conference hosted by MetroLab on ways in which cities can partner with universities across the MetroLab Network.

Source of Funds: Carnegie Mellon University (MetroLab is an institution within Carnegie Mellon) a 501(c)(3) organization will reimburse for airfare and hotels. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)

Dropped.

2.9 17-067

Mayor's Staff Travel to New York, NY.

Recommendation:

Accept travel payments and designate Mayor's staff, Khanh Russo, Director of Strategic Partnerships, as the City's official representative to travel to New York, New York from September 22, 2017 to September 25, 2017 for the Bloomberg Data for Good Exchange. Source of Funds: Results for America. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)

Accepted.

2.10 17-035

Amendment to the Agreement with Verde Design, Inc. for Landscape Architectural Design Services for Various City Facility Projects.

Recommendation:

Approve the First Amendment to the Master Agreement with Verde Design, Inc. for landscape architectural design services to: (1) increase the total compensation by \$500,000, for a total Agreement amount not to exceed \$1,500,000, (2) to increase the hourly rates, and (3) to extend the term of the Agreement from December 31, 2017, to June 30, 2019, for the exclusive purpose of allowing the consultant to complete work on the Arcadia Softball Facility and the Tamien Park Phase II projects. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Public Works)

Approved.

2.11 17-036 Actions Related to the Change Order for 8248 - Norman Y. Mineta International Airport Southeast Area IT Infrastructure.

Recommendation:

- (a) Approve an increase to the contingency for the 8248-Norman Y. Mineta International Airport Southeast Area IT Infrastructure project in the amount of \$40,787, for a total contingency amount of \$103,032.
- (b) Approval of Contract Change Order No. 5 with WestCal Design and Build, Inc. in the amount of \$40,787.

CEQA: File No. Determination of Consistency with the Final Environmental Impact Report (EIR), as supplemented, for the San José International Airport Master Plan Update, File No. PP15-106, Resolution Nos. 67380 and 71451. (Public Works/Airport)

Approved.

2.12 17-070 2017 League of California Cities Voting Delegate and Alternate Voting Delegate at the Annual Business Meeting.

Recommendation:

As recommended by the Rules and Open Government Committee on August 30, 2017, approve the proposed designation of Councilmember Sergio Jimenez, as the voting delegate, and the Director of Intergovernmental Relations, Betsy Shotwell, as the alternate voting delegate at the September 15, 2017 Annual Business Meeting for the League of California Cities in Sacramento. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Manager)

[Rules Committee referral 8/30/17 - Item G.2.]

Approved.

2.13 17-071 SB 595 (Beall): Regional Measure 3.

Recommendation:

As recommended by the Rules and Open Government Committee on August 30, 2017, pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position of support for SB 595 (Beall), so that the City's legislative representatives can continue to advocate the City's support for SB 595 (Beall). CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment.

(Transportation)

[Rules Committee referral 8/30/17 - Item G.3.]

Position of support reaffirmed.

2.14 17-072

Resolution Condemning the Actions in Charlottesville, VA.

Recommendation:

As recommended by the Rules and Open Government Committee on August 30, 2017, adopt a resolution condemning the “Unite the Right” rally on August 11-12, 2017 in Charlottesville, VA that resulted in a tragic fatality and many injuries. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Perez/Jones)
[Rules Committee referral 8/30/17 - Item G.4.]

Resolution No. 78357 adopted.

2.15 17-103

District 5 Community Events.

Recommendation:

As recommended by the Rules and Open Government Committee on September 6, 2017:

- (a) Retroactively approve the Capitol Park Community Meeting held on August 16, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Retroactively approve Pizza and Policy held on August 18, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (c) Retroactively approve the Gramercy Neighborhood Movie Night held on August 25, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (d) Retroactively approve District 5 Hero’s Reception held on August 31, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (e) Retroactively approve the Viva CalleSJ Business Informational Meeting held on September 6, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (f) Retroactively approve the Community Pancake Breakfast held on September 9, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
- (g) Retroactively approve and accept donations from various individuals, businesses or community groups to support these events.

CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco)
[Rules Committee referral 9/6/17 - Items G.1.a.-G.1.f.]

Approved.

2.16 17-104 2017 League of California Cities Resolutions.

Recommendation: As recommended by the Rules and Open Government Committee on September 6, 2017, approve the recommended City position on two resolutions regarding the implementation of strategies to reduce negative impacts of recent changes to criminal laws; and local control for emergency medical response to be considered at the Annual League of California Cities Conference to be held in Sacramento, September 13 - 15, 2017. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (City Manager)
[Rules Committee referral 9/6/17 - Item G.2.]
Approved.

STRATEGIC SUPPORT

**3.1 Report of the City Manager, Norberto Dueñas (Verbal Report)no report
None provided.**

**3.2 Labor Negotiations Update. Accept Labor Negotiations Update.
None provided.**

3.3 17-038 Office of Emergency Management Workplan Priorities Annual Report.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support on August 17, 2017, accept the annual report on the Office of Emergency Services workplan priorities. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Manager)
[Public Safety, Finance, and Strategic Support referral 8/17/17 - Item (d)(4)]
Report Accepted. (10-0-1. Absent: Carrasco.)

**3.4 17-059 Office of Emergency Management Transfer to City Manager's Office
and Establishment of Director.**

Recommendation: (a) Establish the Office of Emergency Management in the City Manager's Office.
(b) Adopt a resolution to amend the City of San José Pay Plan effective September 24, 2017, to reactivate and retitle the classification Director, Emergency Management (U) (formerly Emergency Preparedness Director U) with a salary range of \$153,137.55 - \$239,350.37 annually.
Resolution No. 78348 adopted. (10-0-1. Absent: Carrasco.)

(Item continued on the next page)

**3.4 17-059 Office of Emergency Management Transfer to City Manager's Office
and Establishment of Director. (Cont'd.)**

(c) Adopt the following position adjustments:

(1) Add the following positions to the City Manager's Office:

Title: Director, Emergency Management U

Job Code: 2341

Count: 1

Title: Staff Specialist

Job Code: 1622

Count: 1

Title: Senior Analyst

Job Code: 1654

Count: 1

Title: Analyst I/II

Job Code: 1627

Count: 1

Title: Training Specialist

Job Code: 1693

Count: 1

(2) Eliminate the following positions from the Fire Department:

Title: Deputy Director U

Job Code: 1640

Count: 1

Title: Staff Specialist

Job Code: 1622

Count: 1

Title: Senior Analyst

Job Code: 1654

Count: 1

Title: Analyst I/II

Job Code: 1627

Count: 1

Title: Training Specialist

Job Code: 1693

Count: 1

Approved. (10-0-1. Absent: Carrasco.)

(Item continued on the next page)

3.4 17-059 Office of Emergency Management Transfer to City Manager's Office and Establishment of Director. (Cont'd.)

(d) Adopt the following Fiscal Year 2017-2018 Appropriation Ordinance amendments in the General Fund:

(1) Decrease the Fire Department Personal Services appropriation by \$844,081;

(2) Increase the City Manager's Office Personal Services appropriation by \$844,081;

(3) Decrease the Fire Department Non-Personal/Equipment appropriation by \$655,758; and

(4) Increase the City Manager's Office Non-Personal/Equipment appropriation by \$655,758.

(e) Reassign the Urban Areas Security Initiative Grant - Fire 2016 City-Wide expenses appropriation in the General Fund from the Fire Department to the City Manager's Office.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impacts on the environment. (City Manager)

Ordinance No. 29990 adopted. (10-0-1. Absent: Carrasco.)

3.5 17-039 Fourth Quarter Financial Reports for Fiscal Year 2016-2017.

Recommendation:

As recommended by the Public Safety, Finance, and Strategic Support on August 17, 2017, accept the following Fourth Quarter (period ending June 30, 2017) Financial Reports for Fiscal Year 2016-2017 for the following programs:

(a) Debt Management Report;

(b) Investment Management Report;

(c) Revenue Collection Report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Finance)

[Public Safety, Finance, and Strategic Support referral 8/17/17 - Item (d)(1)]

Accepted. (10-0-1. Absent: Carrasco.)

3.6 17-073

Open Government: The City Has Made Progress in Meeting the Goals of the Sunshine Reform Task Force.

Recommendation:

As recommended by the Rules and Open Government Committee on August 30, 2017, accept the audit of the Open Government. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (City Auditor)

[Rules Committee referral 8/30/17 - Item G.5.]

Accepted with the Memorandum from Councilmember Raul Peralez, dated September 11, 2017 to accept the audit of the Open Government with the following modification: to include in the City Auditor's Recommendation #2 that the development of policy and procedures should also entail sufficient public input prior to fully adopting any amendments; and including the Memorandum from Councilmember Sergio Jimenez, dated September 12, 2017 to accept the audit with the following additions:

1. Amend Recommendations #2 and #3 to direct the inclusion of a broader "Fiscal Impact" report providing information on the impacts to the City budget of private development proposals that require Council approval. The "Fiscal Impact" report would disclose, as applicable:

- a. An estimation of the City's share of property tax revenue generated if the project is approved;**
- b. Projected Transient Occupancy Tax (TOT) and Sales Tax generated;**
- c. Impact fees paid to the City, including but not limited to affordable housing fees and parkland dedication in-lieu fees;**
- d. Any other tax revenue generated or fees paid, if the project is approved, that benefits the City;**
- e. Fee or tax reductions or waivers, which would be expressed as the monetary value that is foregone by the City; and**
- f. Any other public subsidy provided pertaining to the project. The Planning Department should work with the City Manager's Office, the Office of Economic Development, the Housing Department, and the Department of Parks, Recreation, and Neighborhood Services to prepare this information for inclusion in memoranda to both the Planning Commission and to Council.**

2. Direct the City Manager's Office and the City Clerk's Office to improve public notification of City Board and Commission agendas by creating email distribution lists that members of the public can subscribe to through an easy-to-use portal on the City website; and defer the decision on Recommendation No. 8 and send to the Board of Fair Campaign and Political Practices for input.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 17-054 Agreements for Urban Village Master Plans and Other Projects to Implement Envision San José 2040 General Plan.

Recommendation:

Adopt a resolution authorizing the City Manager to increase the maximum aggregate compensation to the Master Consulting Agreements for Urban Village Master Plans and related City projects in seven technical areas: 1) Urban Design, 2) Circulation Improvements, 3) Environmental Review Analysis, 4) Online Engagement, 5) Public Finance, 6) Public Art, and 7) Traffic Impact Analysis, from \$3,000,000 to \$12,000,000, for the initial five-year term ending in November 2020, subject to the appropriation of funds, for the approved list of consultants listed below.

- (1) AECOM, Inc. (San Diego, CA)
- (2) Alta Planning & Design (San José, CA)
- (3) Bottomley (Oakland, CA)
- (4) Circlepoint (San José, CA)
- (5) David J. Powers (San José, CA)
- (6) Dyett & Bhatia (San Francisco, CA)
- (7) Economic & Planning (Oakland, CA)
- (8) ESA Associates (San Francisco, CA)
- (9) Fehr &Peers (San José, CA)
- (10) Gehl Studio (San Francisco, CA)
- (11) Hexagon (San José, CA)
- (12) HKS Architects (Dallas, TX)
- (13) Keyser Marston (San Francisco, CA)
- (14) Kimley & Horn (San José, CA)
- (15) Metropolitan Planning (Mountain View, CA)
- (16) Moore Iacofano Goltsman (Berkeley, CA)
- (17) NelsonNygaard (San Francisco, CA)
- (18) Opticos Design (Berkeley, CA)
- (19) Placeworks (Berkeley, CA)
- (20) Skidmore, Owings & Merrill (New York, NY)
- (21) Strategic Economics (Berkeley, CA)
- (22) Wallace, Roberts & Todd (San Francisco, CA)
- (23) ZGF (Portland, OR)

CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Planning, Building and Code Enforcement/Finance)

Resolution No. 78349 adopted for a \$3,000,000 increase.

NEIGHBORHOOD SERVICES

5.1 17-048 Actions Related to the 7620-Arcadia Softball Facility Project.

Recommendation:

(a) Report on bids and award of contract for the 7620-Arcadia Softball Facility Project to the low bidder, Goodland Landscape Construction, Inc., for the base bid and Bid Alternate No. 1 in the amount of \$16,791,161, and approval of a five percent contingency in the amount \$840,000.

(b) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Parks and Recreation Bond Projects Fund:

(1) Increase the Beginning Fund Balance by \$748,000; and

(2) Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$748,000.

Resolution No. 78350 adopted.

Ordinance No. 29991 adopted.

(c) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes:

(1) Decrease the Beginning Fund Balance by \$65,100;

(2) Decrease the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$65,100;

(3) Increase the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department by \$1,300,000; and

(4) Decrease the Infrastructure Backlog Reserve by \$1,300,000.

Resolution No. 78351 adopted.

Ordinance No. 29992 adopted.

(d) Adopt the following 2017-2018 Appropriation Ordinance and Funding Source Resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:

(1) Decrease the Beginning Fund Balance \$33,600;

(2) Decrease the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$33,600;

(Item continued on the next page)

5.1 17-048 Actions Related to the 7620-Arcadia Softball Facility Project. (Cont'd.)

(d)(3) Increase the Arcadia Softball Facility Maintenance Yard appropriation to the Parks, Recreation, and Neighborhood Services Department by \$129,000;

(4) Decrease the Park Yards Future Projects Reserve by \$129,000;

Resolution No. 78352 adopted.

Ordinance No. 29993 adopted.

(e) Adopt the following 2017-2018 Appropriation Ordinance Amendments in the Subdivision Park Trust Fund:

(1) Establish the Arcadia Softball Facility appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$144,000; and

(2) Decrease the Future PDO/PIO Projects Reserve appropriation by \$144,000.

Ordinance No. 30012 adopted.

CEQA: Addendum to the Evergreen East Hills Vision Strategy Environmental Impact Report and Supplemental Environmental Impact Report (Resolution No. 74742), File No. PP14-088. Council District 8. (Parks, Recreation and Neighborhood Services/Public Works/City Manager)

(Deferred from 8/22/17 - Item 5.2)

TRANSPORTATION & AVIATION SERVICES

6.1 17-034 Public Hearing on the Air Service Support Program.

Recommendation:

(a) Conduct a Public Hearing pursuant to California Government Code Section 53083 regarding application of the City's Air Service Support Program, as authorized by the Federal Aviation Administration to Alaska Airlines and Frontier Airlines.

(b) Adopt a resolution authorizing the Director of Aviation or the Director's designee to provide the City's Air Service Support Program to new air carrier service as outlined in below:

Airline: Alaska

Market: Dallas Love

Airport: DAL

Frequency: 1 Daily

Support Period: 18 Months

(Item continued on the next page)

6.1 17-034 Public Hearing on the Air Service Support Program. (Cont'd.)

Landing Fee Waivers: (\$100,490)

Marketing Funds: (\$50,000)

Airline: Frontier

Market: Denver

Airport: DEN

Frequency: 1 Daily

Support Period: 12 Months

Landing Fee Waivers: \$0

Marketing Funds: (\$100,000)

Airline: Frontier

Market: Austin

Airport: AUS

Frequency: 1 Daily

Support Period: 18 Months

Landing Fee Waivers: (\$195,070)

Marketing Funds: (\$50,000)

Airline: Frontier

Market: San Antonio

Airport: SAT

Frequency: 1 Daily

Support Period: 18 Months

Landing Fee Waivers: (\$195,070)

Marketing Funds: (\$50,000)

For each airline and corresponding route, landing fees are waived under the program for the qualifying periods and/or marketing funds are provided to promote the new services. Frontier's first route, Denver, qualifies for New Entrant Carrier marketing funds.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts resulting in no physical changes to the environment. (Airport)

Public hearing held.

Resolution No. 78353 adopted.

ENVIRONMENTAL & UTILITY SERVICES

7.1 17-037 Report on Bids and Award of Contract for the 8383- Cast Iron Sewer Replacement FY 16-17 Package IV Project.

Recommendation: Report on bids and award of contract for the 8383- Cast Iron Sewer Replacement FY 16-17 Package IV to the low bidder, Cratus, Inc., in the amount of \$1,127,268 and approve a contingency in the amount of \$112,727. CEQA: Exempt, File No. PP17-031, CEQA Guidelines Section 15301, Existing Facilities, and 15302, Replacement or Reconstruction. Council Districts 6 & 9. (Public Works)
Accepted.

7.2 17-056 Actions Related to San José Water Company.

Recommendation: As recommended by the Rules and Open Government Committee on August 23, 2017, direct the City Manager to do the following and return to Council before the San José Water Company Public Participation Hearing in September:

- (a) Research and present to Council a summary of the City of San José's payments to San José Water Company for water service for the last 6 years (2012-2016). The City Manager should present as a part of this summary:
 - (1) The total number of San José residents who receive water services from San José Water Company.
 - (2) The amount the City of San José pays for water service from San José Water Company monthly and annually.
 - (3) The total increase in cost for water services from San José Water Company.
 - (4) The total amount paid in drought surcharges.
 - (5) A list of all rate changes from San José Water Company with the associated purpose for the rate change.
 - (6) An estimate of the total refund the City of San José may receive as proposed in San José Water Company's advice letter #510 to the PUC.
 - (7) An estimate the of the total refund the City of San José would receive due to the meter credit proposed in advice letter #510 as calculated from when the City of San José account was first started.

(Item continued on the next page)

7.2 17-056

Actions Related to San José Water Company. (Cont'd.)

(b) Evaluate based on the information above, the scale and scope of the situation, and whether the City of San José should take a more active role in representing the interests of the San José residents concerning San José Water Company rate increases. If appropriate, the City Manager should consider if there are ways for the City to become more engaged in the CPUC protest and response, formal complaint process, or any investigations that would allow us to represent the interests of San José residents and ensure their concerns are heard.

(c) Any other pertinent or beneficial information for the public.

CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Rocha)

[Rules Committee referral 8/23/17 - Item G.2.]

TO BE HEARD IN THE EVENING

Public testimony heard.

Deferred to 10/24/17 per Orders of the Day.

PUBLIC SAFETY

8.1 17-041

Fireworks Enforcement Ordinance Post-Fourth of July 2017 Status Report.

Recommendation:

As recommended by the Public Safety, Finance, and Strategic Support Committee on August 17, 2017, accept the status report on the implementation of the Fireworks Enforcement Ordinance Post-Fourth of July 2017. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Fire)

[Public Safety, Finance, and Strategic Support Committee referral 8/17/17 - Item (d)(3)]

Accepted with the Memorandum co-authored by Mayor Sam Liccardo, Councilmember Sylvia Arenas, and Councilmember Johnny Khamis, dated September 8, 2017 to:

- 1. Accept the Fireworks Enforcement Ordinance Post Fourth of July Report;**
- 2. Direct the City Manager to:**

- a. Fines and Appeals: Return to Council with information regarding actual usage of hardship exemption for appealing fireworks citation without payment of the fine. Absent evidence of frequent awareness of and actual use of the exemption, eliminate the requirement for payment prior to appeal.**

(Item continued on the next page)

8.1 17-041

Fireworks Enforcement Ordinance Post-Fourth of July 2017 Status Report. (Cont'd.)

- b. Evidence:** Draft written policy for Council approval setting forth the minimum threshold evidentiary requirements for issuance of citation to any individual violator.
- c. Staff Ownership:** Identify a lead department and staff person responsible for managing this project, and to provide information responsive to Community and Council requests.
- d. Prior Council Direction:** Follow Council's previous direction provided in both the September 13, 2016 and April 25, 2017 memoranda, with minor modification, as follows:
 - i.** Work with the City Manager to redirect a portion of funds used for purchased media and lawn signs to support the receipt, triage, and response to incoming calls and reports.
 - ii.** Report on the feasibility of better utilizing existing technology and new tools for identifying violators and the precise location of violations, such as "Shot Spotter."
 - iii.** Explore implementation of creating a separate phone line and number, to field routine, non-emergency fireworks complaints during major holidays, to mitigate the logjam at the call center and dispatch. Consider whether cleared volunteers could be trained to handle nonemergency, routine complaints regarding fireworks during periods in which the call center is overwhelmed.
 - iv.** Determine a schedule that allows for online reporting, enforcement, and follow-up to commence in early June 2018 or sooner to better deter illegal activity during the Fourth of July holiday.
 - v.** Coordinate messaging between departments, the 311 call center, and dispatch, such that all staff utilize the same, consistent message, particularly in conveying the same directions to residents.
 - vi.** Overhaul the campaign messaging, working with the Mayor's Office of Strategic Partnerships to leverage collaborations with organizations such as Bloomberg Philanthropies. Explore data driven behavioral insights about messaging more likely to deter violations than merely generic messages about fireworks' illegality or lack of safety. For example, focus on dialogue that demonstrates to potential violators of the heightened risk of detection and enforcement, such as by emphasizing how residents can help reduce fireworks usage by using the online reporting tool, and by noting the enhanced administrative enforcement that will not require the presence of a police officer.
- e. MySanJose App:** Explore the integration of a reporting tool into "MySanJose"
- f. KPI's:** Identify metrics that can be used to benchmark progress with the of fireworks violations—even using imperfect & biased data, such as 311 calls or on-line complaints, with appropriate qualification.

(Item continued on the next page)

8.1 17-041 Fireworks Enforcement Ordinance Post-Fourth of July 2017 Status Report. (Cont'd.)

**Cost Recovery for Response: Where Fire Department must respond to fireworks related fires, explore imposing costs of emergency response on violators h. Setting Expectations: Add an additional disclaimer—with a “check-box” feature to ensure user awareness—to the on-line reporting tool that enables the user to know that the City will utilize the information to investigate violations and enforce the law, but that it does not provide a means for immediate response.
(9-0-2. Absent: Carrasco, Rocha.)**

REDEVELOPMENT – SUCCESSOR AGENCY

OPEN FORUM

Sigi Tadakoro, Rick Wu, Kim Ye, Dan Schnebil, Michael Fitzgerald, Ken Schnebly, Gustavo Gonzales, Mr. Largent, Chun Chi Ma, Anne Wu spoke regarding the draft Apartment Rent Ordinance and Tenant Protection Ordinance.

ADJOURNMENT

Mayor Sam Liccardo adjourned the afternoon session at 5:18 p.m.

LAND USE

10.1 Land Use on Consent Calendar

10.1(a) 17-044 **Conforming Rezoning for Real Property Located at 222 West Capitol Expressway.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 0.97-gross acre site, located on the south side of West Capitol Expressway, approximately 140 feet westerly of Snell Avenue a (222 West Capitol Expressway) from the LI Light Industrial Zoning District to the CG Commercial General Zoning District (Demetrios J. Barrous, Owner). CEQA: Determination of Consistency with the Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617) and Addenda thereto. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement)
C17-029 - Council District 10
Ordinance No. 29994 passed for publication.

10.1(b) 17-049 **Conforming Rezoning of the Real Property Located at 461 Park Avenue.**

Recommendation: Consideration of an ordinance of the City of San Jose rezoning a 0.16-gross acre site, located on the northwest corner of Park Avenue and Gifford Avenue at 461 Park Avenue from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on (Paul and Jane Yin, Et Al, Owner). CEQA: Determination of Consistency with the Final Program Environmental Impact Report for the Diridon Station Area Plan (Resolution No. 77096), the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617) and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
C17-010 - Council District 3
Ordinance No. 29995 passed for publication.

10.1(c) 17-062 Conforming Rezoning for Real Property Located at 1919 Senter Road.

Recommendation: (a) Adopt a resolution adopting the Senter Road Office Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.

Resolution No. 78354 adopted.

(b) Consideration of an ordinance of the City of San José rezoning a 2.69-gross acre site, located at 1919 Senter Road from A(PD) Planned Development Zoning District to HI Heavy Industrial Zoning District (D&D Ranch, Owners).

Ordinance No. 29996 passed for publication.

CEQA: Mitigated Negative Declaration for the Senter Road Office Project. Planning, Building and Code Enforcement Director recommends approval. (Planning, Building and Code Enforcement) C16-034 - Council District 7

END OF CONSENT CALENDAR

10.2 17-045 Conditional Use Permit and Determination of Public Convenience or Necessity for the Real Property Located at 320 Race Street.

Recommendation: Adopt a resolution approving a Conditional Use Permit and Determination of Public Convenience or Necessity to allow late-night use, and the off-sale of alcohol for a full range of alcoholic beverages (ABC Type-21 License) on a proposed commercial/retail development (File No. H17-018) on an approximate 2.0-gross acre site, located at the Southeast corner of West San Carlos Street and Race Street (320 Race Street) (San Carlos 1 LLC, Owner). CEQA: Exempt per CEQA Guidelines Section 15332 for In-Fill Development Projects. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

CP17-005 & ABC17-002 - Council District 6

The Public Hearing was held.

Resolution No. 78355 adopted.

10.3 17-046

Planned Development Rezoning and Planned Development Permit for Real Property Located at 330 South Winchester Boulevard. DROP

Recommendation:

(a) Consideration of an ordinance of the City of San José rezoning an approximately 43 acres site (Santana Row), located on the southeast corner of Winchester Boulevard and Stevens Creek Boulevard from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow late night use (12:00 a.m. - 6:00 a.m.) excepting those uses within Lot 3A, Lot 4, Lot 6A, and Lot 12 in Santana Row (Federal Realty Trust, Owner).

(b) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow late night use between the hours of 12:00 a.m. and 2:00 a.m. at an existing restaurant (Roots and Rye) located at 330 South Winchester Boulevard.

CEQA: Determination of Consistency with the Santana Row Planned Development Rezoning Environmental Impact Report (Resolution No. 77532) and Addenda thereto, File No. PDC13-050.

PDC17-023 & PD17-017 - Council District 6

Dropped.

- Open Forum
None provided.

- Adjournment

Mayor Sam Liccardo adjourned the evening session at 6:18 p.m.

JOINT CITY OF SAN JOSE CITY COUNCIL/HOUSING AUTHORITY AGENDA

September 12,

1. Call to Order and Roll Call

The Joint City of San Jose City Council/Housing Authority Agenda convened at 4:55 p.m.

**2. 17-040 Actions Related to the Agreement for the Transfer and Expenditure
of All Housing Authority Litigation Award Funds.**

Recommendation:

(a) Adopt a resolution of the Board of Commissioners for the Housing Authority of the City San José (“City Housing Authority”) authorizing the Executive Director of the City Housing Authority to execute a Cooperation Agreement with the City for the transfer of approximately \$36.3 million in Housing Authority Litigation Award funds to the City to commit and expend such funds consistent with State Housing Authority law.

Resolution No. 78358 adopted.

(b) Adopt a resolution of the City of San José authorizing the City Manager to execute a Cooperation Agreement to enable the City to commit and expend the transferred Housing Authority Litigation Award funds consistent with State Housing Authority law.

CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Housing)

Resolution No. 78359 adopted.

- Open Forum
None Provided

The Joint City of San Jose City Council/Housing Authority Agenda adjourned the meeting.

City Council

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

**Tract - 10383, Location - 6082 Almaden Expressway, District 10,
Developer - DAL/Edenbridge San Jose 8, LP,
Lots/Units - 11/18, Type - SFD, Proposed Decision - Approve**